

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:)	
)	
Shiah et al.)	Confirmation No.: 3422
)	
Serial No.: 10/612,095)	Group Art Unit: 2621
)	
Filed: July 2, 2003)	Examiner: Zhao, Daquan
)	
For: Method for Playing Back Optical)	TKHR Ref. 250318-1390
Videodisc)	Client Ref: PCL-031US
)	

APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop Appeal Brief - Patents
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed on December 21, 2007, responding to the Final Office Action mailed August 3, 2007 (Part of Paper No./Mail Date 20070802) (hereinafter "Final Office Action"), rejecting claims 1-4 and 7-10 in the present application and making the rejection FINAL, and to the Advisory Action mailed October 15, 2007 (Part of Paper No./Mail Date 20071005), which indicated that claims 1-4 and 7-10 are rejected.

I. REAL PARTY IN INTEREST

The real party in interest of the instant application is Cyberlink Corp., a corporation of Taiwan, R.O.C., having its principal place of business in Taipei, Taiwan, P.O.C., as reflected by assignment recorded at Reel 014281, Frame 0477.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-4 and 7-10 are pending in this application. Claims 5 and 6 were cancelled, and claims 1-4 and 7-10 were rejected by the Final Office Action. Appellants hereby appeal the rejections of claims 1-4 and 7-10.

IV. STATUS OF AMENDMENTS

There have been no claim amendments made after the Final Office Action, and all amendments made before the Final Office Action have been entered. A copy of the current claims is attached hereto as Appendix A.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Embodiments of the claimed subject matter are illustrated in FIGs. 1 and 2 and are discussed in the specification from p. 3, line 3 through p. 8, line 11. Example embodiments of the claimed subject matter, among others, are summarized below with reference numbers and references to the written description ("specification") and drawings. The subject matter

described below appears in the original disclosure at least where indicated and may further appear in other places within the original disclosure.

Embodiments of the invention, such as those defined by claim 1, define a method for playing back optical videodisc by using an optical disc drive. (see e.g., specification at least p. 3, line 9 – p. 4, line 18) The method comprising the following steps: a. reading video data from an optical videodisc at highest possible speed of the optical disc drive; (see e.g., reference number 100 and specification at least p. 4, line 19-23; p. 5, line 18 – p. 6, line 4) b. storing the video data to a non-volatile storage device; (see e.g., reference number 102 and specification at least p. 4, lines 19-21; p. 5, lines 1-2; p. 5, line 18 – p. 6, line 4) c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose; (see e.g., reference number 106 and specification at least p. 4, lines 19-21; p. 5, line 4-6; p. 5, line 18 – p. 6, line 4) d. according to a video playing speed, a video play back device continuously acquiring and playing back the video data from the non-volatile storage device; (see e.g., reference number 108 and specification at least p. 4, lines 19-21; p. 5, line 12-13; p. 5, line 18 – p. 6, line 4) and e. outputting the video data to a video display unit (see e.g., reference number 110 and specification at least p. 4, lines 19-21; p. 5, line 15-16; p. 5, line 18 – p. 6, line 4).

Embodiments of the invention, such as those defined by claim 4, comprising the method of claim 1, and the non-volatile storage device in step (b) comprises a hard disc. (see e.g., specification at least p. 4, lines 7-8).

Embodiments of the invention, such as those defined by claim 7, comprising the method of claim 1, wherein the step (b) further comprises the following sub-steps: simultaneously acquiring and playing back the video data that has been stored in the storage device, (see e.g., at least reference number 104 and specification at least p. 5, lines 4-16). then outputting the film

data to a video display unit according to video playing speed. (see e.g., at least reference number 110 and specification at least p. 5, lines 4-16).

Embodiments of the invention, such as those defined by claim 10, define a method for playing back optical videodisc by using an optical disc drive. The method comprising the following steps: a. reading video data from an optical videodisc at highest possible speed of the optical disc drive; (see e.g., reference number 100 and specification at least p. 4, line 19-23; p. 5, line 18 – p. 6, line 4) b. storing the entire video data to a non-volatile storage device; (see e.g., reference number 102 and specification at least p. 4, lines 19-21; p. 5, lines 1-2; p. 5, line 18 – p. 6, line 4) c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose; (see e.g., reference number 106 and specification at least p. 4, lines 19-21; p. 5, line 4-6; p. 5, line 18 – p. 6, line 4) d. according to a video playing speed, a video play back device continuously acquiring and playing back the video data from the non-volatile storage device; (see e.g., reference number 108 and specification at least p. 4, lines 19-21; p. 5, line 12-13; p. 5, line 18 – p. 6, line 4) e. outputting the video data to a video display unit; (see e.g., reference number 110 and specification at least p. 4, lines 19-21; p. 5, line 15-16; p. 5, line 18 – p. 6, line 4) f. ending the output of the video data; (see e.g., Fig. 2 and specification at least p. 3, line 3 through p. 8, line 11) and g. outputting the video data directly from the non-volatile storage device (see e.g., reference numbers 108, 110 and specification at least p. 4, lines 19-21; p. 5, line 12-16; p. 5, line 18 – p. 6, line 4).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Final Office Action rejected claims 1-3 and 8-9 under 35 U.S.C §103(a) as being unpatentable over *deCarmo* (U.S. Pat. No. 6,381,404 B1) (hereinafter “*deCarmo*”) in view of

Sasaki et al. (U.S. Pat. No. 6,836,454B2) (hereinafter "*Sasaki*"), and further in view of Examiner's Official Notice.

The Final Office Action rejected claim 7 under 35 U.S.C §103(a) as being unpatentable over *deCarmo* and *Sasaki* as applied to claims 1-3 and 8-9 above, and further in view of *Logan et al.* (U.S. Pat. No. 5,371,551) (hereinafter "*Logan*").

The Final Office Action rejected claim 4 under 35 U.S.C §103(a) as being unpatentable over *deCarmo* and *Sasaki* as applied to claims 1-3 and 8-9 above, and further in view of Examiner's Official Notice.

The Final Office Action rejected claim 10 was rejected under 35 U.S.C §103(a) as being unpatentable over *deCarmo* in view of *Sasaki* and further in view of *Holt* (U.S. Pat. No. 4,139,869) (hereinafter "*Holt*").

VII. ARGUMENT

Rejection of claims 1-3 and 8-9 under 35 U.S.C. § 103(a) as being unpatentable over *deCarmo* in view of *Sasaki*

The Final Office Action rejected claims 1-3 and 8-9 under 35 U.S.C §103(a) as being unpatentable over *deCarmo* in view of *Sasaki*. Appellant respectfully requests that these rejections be overturned for at least the reasons that follow.

Independent claim 1 recites:

1. A method for playing back optical videodisc by using an optical disc drive, the method comprising the following steps:

a. reading video data from an optical videodisc at highest possible speed of the optical disc drive;

b. *storing the video data to a non-volatile storage device;*

c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose;

d. according to a video playing speed, a video play back device continuously acquiring and playing back the video data from the non-volatile storage device;

e. outputting the video data to a video display unit.

(*emphases added.*) Claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

The Final Office Action has cited col. 1, lines 26-38 of *Sasaki* as allegedly teaching this feature. Appellants respectfully disagree. In this regard, the cited portion of the *Sasaki* reference states:

When a CD-ROM drive or the like operates for reproduction, it reads information from a disk mounted on it, while making the disk revolving at the maximum speed (maximum revolutions per second), in order to read necessary information as quickly as possible from the disk. **If the disk drive remains inoperative for reading from the disk for a preset period, it sets the disk revolving at low speed. If the disk drive still remains inoperative for reading for a further longer preset period, it stops the disk.** By controlling the disk revolution in this way, low power consumption and noise reduction designed for CD-ROM drives or the like are achieved. By way of example, a typical CD-ROM drive structure is represented in a block diagram shown in FIG. 1.

(*emphasis added.*) According to this cited portion of *Sasaki*, the disk drive is halted only after it has been inoperative for a “preset period” of time after the read operation. That is, *Sasaki* specifically teaches that a read operation is performed, and then the disk drive continues to spin. Then, after a preset period of time of inoperativeness, the disk drive slows to revolve at a low speed. Then, after a further preset period, the disk drives stops revolving.

In contrast, claim 1 specifically defines halting the operation of the optical disc after the read operation “in order to avoid unnecessary free running during idling time for power savings.”

Although the purpose for ultimately stopping the disk drive is the same (i.e. low power consumption), the conditions for stopping the drive are different. That is, claim 1 defines embodiments that do not idle through the “preset” periods described in *Sasaki*. Thus, *Sasaki* fails to teach this feature of claim 1.

Furthermore, the addition of *deCarmo* fails to cure this deficiency of *Sasaki* because the Final Office Action conceded on p. 4 that *deCarmo* fails to teach “halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose.” Therefore, even if *Sasaki* could be properly combined with *deCarmo*, the resulting combination does not teach feature emphasized above in claim 1, and for at least this reason, the rejection should be overturned.

As a separate and independent basis for the patentability of claim 1, Appellant submits that the cited art also fails to disclose “a video playback device continuously acquiring and playing back the video data from the non-volatile storage device.” The Final Office Action on p. 3 cited *deCarmo*, col. 5, line 48 – col. 6, line 5 as disclosing this feature. Appellant respectfully disagrees. In this regard, the cited portion of *deCarmo* states:

The **DVD player loads data fetched** during a read-ahead operation **into a cache** 150 of memory 120 prior to its processing and/or decoding. Memory caching is well known in the computer arts as well as in the DVD Specification. The fetched data can be stored in the cache 150 until it is needed. Read-ahead operations are useful in that they are designed to maintain sufficient data in the cache to enable playback to continue uninterrupted even while the microprocessor is servicing interrupts. Unfortunately, conventional read-ahead operations can be limited or prevented altogether due copy-protection techniques. As described above, such techniques can prevent conventional read-ahead techniques from reading data blocks that cross title boundaries into titles that the DVD player is not authorized to play. Further information regarding caches for DVD players and problems associated with copy protected content can be had with reference to a co-pending, commonly-assigned U.S. Pat. application, Ser. No. 09/122,967, entitled “A Host-Based Caching Method and System for Copy Protected Content,” filed by Linden A. DeCarmo. (The disclosure of that application is incorporated herein by reference.) The invention pertains to a novel technique for performing read-ahead operations and storing data in the cache of the DVD player, particularly where, e.g., title keys possessed by the player will not permit read-ahead operations to cross title boundaries.

(emphases added) According to this cited portion of *deCarmo*, a cache is taught. It is well known that a cache is volatile memory and that volatile memory is different from non-volatile memory. In fact, the Advisory Action on p. 3 pointed out some of the differences between them:

The volatile memory, such as Random Access Memory, gives a **fast** accessing speed, and it is normally has **less** storage capacity because it is costly. The non-volatile memory, such as HDD or DVD, gives a **slower** accessing speed, and it normally has **greater** storage capacity because it is not as costly as the volatile memory.

(emphases added). Hence, the cache described in *deCarmo* cannot disclose non-volatile memory. Moreover, consistent with the differences noted by the Advisory Action, the choice of whether to incorporate volatile memory versus non-volatile memory in a design is nontrivial.

Additionally, the cache or memory used in *deCarmo* is a volatile module in which data may disappear from the memory when the player shuts down, rather than a non-volatile storage device as claimed in independent claim 1. Further still, because the data may disappear, *deCarmo* is unable to retrieve any data from the memory after the operation is stopped. Consequently, *deCarmo* also fails to teach the claimed feature of “continuously acquiring and playing back the video data from the non-volatile storage device.”

Also, although the Final Office Action characterized the above cited section from *deCarmo* as describing “continue uninterrupted playback from the cache,” this section does not disclose continuously **acquiring** anything from a non-volatile storage device. Moreover, this cited portion of *deCarmo* states that the **cache** enables playback to continue uninterrupted. It says nothing about whether non-volatile memory could do so. Given all the differences between volatile and non-volatile memory pointed out by the Advisory Action, it is not clear from reading *deCarmo* that playback could continue uninterrupted from a non-volatile memory.

Besides, the capacity of the cache in *deCarmo* is too small to store all the data on the DVD disc. (See Fig. 2). It must store information in blocks. (See Abstract). In other words, claim 1 of the present application was unforeseeable at the time of *deCarmo*, and thus, *deCarmo* fails to teach that data can be cached to a non-volatile storage device from the disc, that the

operation of the optical disc is stopped after the reading process has completed, and that then the video data is displayed from the storage device.

Furthermore, the Final Office Action admits that neither *deCarmo* nor *Sasaki* teaches the claimed “non-volatile storage device.” To attempt to remedy the shortcomings of those references, the Examiner took “official notice of the non-volatile storage device since it is well known in the art.” While Appellants do not disagree with the statement that non-volatile storage devices are well known, Appellants disagree with its use here. In this regard, just because something is “well known in the art” does not mean that such an element can be combined at will with other elements. The legal precedent surrounding 35 U.S.C. § 103 still requires that there be some proper suggestion or motivation to make the combination. The Final Office Action has not alleged any such motivation. Instead, the Final Office Action merely stated that “it would have been obvious ... to increase the storage capacity for the system.” (See *e.g.*, Final Office Action, p. 4)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

Office policy has consistently been to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquiries enunciated therein as a background for determining obviousness are briefly as follows:

- (A) Determining of the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

...

BASIC CONSIDERATIONS WHICH APPLY TO OBVIOUSNESS REJECTIONS

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The foregoing approach to obviousness determinations was recently confirmed by the United States Supreme Court decision in *KSR INTERNATIONAL CO. V. TELEFLEX INC. ET AL.* 550 U.S. ____ (2007)(No. 04-1350, slip opinion, p. 2), where the Court stated:

In *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103, language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwood*, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.*, at 17–18.

Simply stated, the Final Office Action has failed to at least (1) ascertain the differences between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the two references (i.e., “it would have been obvious ... to increase the storage capacity for the system) embodies clear and improper hindsight rationale. In this regard, from a storage capacity standpoint, there is no difference between volatile and non-volatile memory. That is, why would non-volatile memory allow increased storage capacity (as alleged by the Final Office Action)? This clearly reflects a misplaced rationale for forming the rejection and the rejection should consequently be reversed.

As yet another independent basis for reversing the rejection of claim 1, Appellants respectfully submit that the combination of *Sasaki* with *deCarmo* is improper. This combination was made on the alleged basis that it would have been obvious “to read-ahead using the maximum speed to read ... and to stop the disk after the reading is done to lower the power consumption and noise...” However, as discussed above, *Sasaki* does not teach the stopping of the disk immediately after the read operation. Instead, it specifically teaches waiting for two preset periods (one preset period until it reduces the disk to a lower revolution speed and a second preset period before stopping the disk). Consequently, the alleged motivation is not actually taught in the prior art, but is merely subjectively alleged by the Examiner (reflecting improper hindsight rationale). For at least this additional reason, the rejection of claim 1 should be reversed.

Accordingly, for at least the foregoing reasons, claim 1 patently defines over the applied combination of references, and the rejection of claim 1 should be reversed. As claims 2-4 and 7-9 depend from claim 1, the rejections of these claims should be reversed for at least the same reasons. See, e.g. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *deCarmo* in view of *Sasaki* in further view of Examiner’s Official Notice

The Final Office Action rejected claim 4 under 35 U.S.C. § 103 as allegedly unpatentable over the combination of *deCarmo* and *Sasaki* as applied to claims 1-3 and 8-9 above, and further in view of Examiner’s Official Notice of a hard disc. Appellants respectfully request that this rejection be overturned for at least the reasons that follow.

In this regard, independent claim 4 recites:

4. The method for playing back optical videodisc ***according to claim 1***, wherein the ***non-volatile storage device*** in step (b) comprises a hard disc.

(emphases added). First, the Final Office Action did not reject claim 4 as being unpatentable over *deCarmo* and *Sasaski* in further view of any official notice of a “non-volatile storage device.” The Final Office Action merely relied on *deCarmo*, *Sasaki* and official notice of a hard disc to reject claim 4. None of these references have been shown to teach the feature of a “non-volatile storage device” which Appellant has claimed in independent claim 1 and refers to in dependent claim 4. Accordingly, the Final Office Action has failed to properly reject claim 4 because it has failed to present any reference or combination that teaches the features of claims 1 and 4.

Appellants also submit that dependent claim 4 is allowable for at least the reason that it depends from an allowable independent claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Therefore, for at least the reasons discussed above, Appellants respectfully request that the rejection of claim 4 be overturned.

Rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *deCarmo* in view of *Sasaki* in further view of *Logan*

The Final Office Action rejected claim 7 under 35 U.S.C §103 (a) as being unpatentable over *deCarmo* and *Sasaki* as applied to claims 1-3 and 8-9 above, and further in view of *Logan*. Appellant respectfully requests that these rejections be overturned for at least the reasons that follow.

Claim 7 recites:

7. The method for playing back optical videodisc **according to claim 1**, wherein the step (b) further comprising the following sub-steps:

simultaneously acquiring and playing back the video data that has been stored in the **storage device**, then outputting the film data to a video display unit according to video playing speed.

(emphases added). First, the Final Office Action did not reject claim 7 as being unpatentable over *deCarmo* and *Sasaski* in further view of any official notice. The Final Office Action merely

relied on *deCarmo*, *Sasaki* and *Logan* to reject claim 7. None of these references teach the feature of a “non-volatile storage device” which Appellant has claimed in independent claim 1 and refers to in dependent claim 7. Moreover, in rejecting claim 7, the Final Office Action stated:

For claim 7, ***deCarmo and Sasaki et al (or the teaching of Ishii et al and Klaasseneet al) fail to teach simultaneously acquiring and playing back the video data from the storage device.*** Logan et al teach simultaneously acquiring and playing back the video data from the storage device (e.g. column 3, lines 8-24, dual-port ram 6). It would have been obvious for one of ordinary skill in the art at the time the invention was ***made to incorporate the dual-port RAM disclosed by Logan et al into the system of deCarmo and Sasaki et al*** to reduce the waiting time of the user since Logan et al suggest the video can be view prior to the memory is fully loaded (Logan et al, column 3, lines 46-54).

(emphases added). This section fails to put forth a proper rejection of claim 7. As noted above regarding claim 1, the Advisory Action stated on p. 3 that Random Access Memory (RAM) is volatile memory and explained how it was different from non-volatile memory. Furthermore, the Final Office Action on p. 4 conceded that neither *deCarmo* or *Sasaki* teaches non-volatile memory. Accordingly, the Final Office Action has failed to properly reject claim 7 because it has failed to present any reference or combination that teaches the features of claims 1 and 7.

Appellants also submit that dependent claim 7 is allowable for at least the reason that it depends from an allowable independent claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Therefore, for at least the reasons discussed above, Appellants respectfully request that the rejection of claim 7 be overturned.

Rejection of claim 10 under 35 U.S.C. § 103(a) as being unpatentable over deCarmo in view of Sasaki in further view of Holt

The Final Office Action rejected claim 10 under 35 U.S.C §103(a) as being unpatentable over *deCarmo* in view of *Sasaki* and further in view of *Holt*. Appellants respectfully requests the reversal of this rejection. In this regard, independent claim 10 recites:

10. A method for playing back optical videodisc by using an optical disc drive, the method comprising the following steps:
- a. reading video data from an optical videodisc at highest possible speed of the optical disc drive;
 - b. storing the entire video data to a non-volatile storage device;
 - c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose;**
 - d. according to a video playing speed, **a video play back device continuously acquiring and playing back the video data from the non-volatile storage device;**
 - e. outputting the video data to a video display unit;
 - f. ending the output of the video data;
 - g. outputting the video data directly from the non-volatile storage device.

(*emphases added*). Claim 10 patently defines over the cited art for at least the reason that the cited art fails to disclose the features recited above.

In short, *deCarmo* and *Sasaki* are applied in the same manner as they were applied to claim 1, with respect to elements b, c, and d. Appellants respectfully disagree with this application of *deCarmo* and *Sasaki* for the same reasons discussed above in connection with claim 1. For at least these reasons, the rejection of claim 10 should be overturned.

Also, the Final Office Action did not reject claim 10 as being unpatentable over *deCarmo* and *Sasaki* in further view of any official notice. The Final Office Action merely relied on *deCarmo*, *Sasaki* and *Holt* to reject claim 10. However, *DeCarmo* and *Sasaki* fail to teach a “non-volatile storage device” as admitted by the Final Office Action on p. 7. Moreover, the addition of *Holt* fails to cure the deficiencies of those references because *Holt* concerns video tape, an antiquated memory technology from the 1970s. The Final Office Action alleged on p. 3

that *Holt*, col. 3, lines 57-65 “is the evidence storing a large amount of data to the non-volatile storage,” and the Advisory Action alleged that “magnetic tape corresponds to non-volatile memory.” However, a person of ordinary skill in the art at the time of the present invention would understand magnetic tape technology to have a lower storage capacity. Moreover, that person certainly would not be motivated to combine that antiquated magnetic tape technology with *deCarmo* and *Sasaki* in a “method for playing back optical videodisc.”

Furthermore, neither *deCarmo* or *Sasaki* discloses feature “storing the **entire** video data to a non-volatile storage device” of claim 10. (emphasis added). *DeCarmo* discusses a multi-block, read-ahead technique (see Abstract), which means that the data is stored in blocks and not in its entirety. Nor does *Sasaki* remedy this shortcoming of *deCarmo* because it merely discusses adjusting the speed of the disc drive after preset periods. Nor does *Holt* teach this feature because the data described in *Holt* was not video data read from an optical disc and because the magnetic tape would not have the necessary capacity. Hence, none of the references describe “storing the entire video data to a non-volatile storage device,” and claim 10 cannot be obvious.

For additional reasons, Appellants disagree with the further combination of *Holt*. Appellants have set forth relevant legal standards above, which govern the combination of references. In short, there must be some motivation or suggestion for making the purported combination. In combining *Holt* with *deCarmo* and *Sasaki*, the Final Office Action merely alleged that the further combination would have been obvious in order “to increase the resolution data in the storage device.” The last element of claim 10, however (the element that *Holt* as applied is allegedly teaching), has nothing to do with increasing resolution of data in a storage device. Moreover, it is difficult to see how *Holt*’s antiquated technology could increase

the resolution at all. Accordingly, the purported motivation is misplaced and the rejection should therefore be overturned.

CONCLUSION

Based upon the foregoing discussion, Appellants respectfully request that the Examiner's final rejection of claims 1-4 and 7-10 be overturned by the Board.

In addition to the claims of Appendix A, Appendix B attached hereto indicates that there is no evidence being attached and relied upon by this brief. Appendix C attached hereto indicates that there are no related proceedings.

A credit card authorization is provided herewith to cover the fee associated with this Appeal Brief. No additional fee is believed to be due in connection with this brief. If, however, any additional fees are deemed to be payable, you are hereby authorized to charge any such fees to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Registration No. 38,962

(770) 933-9500

VIII. CLAIMS - APPENDIX

1. A method for playing back optical videodisc by using an optical disc drive, the method comprising the following steps:

a. reading video data from an optical videodisc at highest possible speed of the optical disc drive;

b. storing the video data to a non-volatile storage device;

c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose;

d. according to a video playing speed, a video play back device continuously acquiring and playing back the video data from the non-volatile storage device; and

e. outputting the video data to a video display unit.

2. The method for playing back optical videodisc according to claim 1, wherein the said optical video disc can be a VCD, SVCD, DVD, or HD-DVD.

3. The method for playing back optical videodisc according to claim 1, wherein the optical disc drive can be a CD ROM, DVD ROM, CD R/W, DVD R/W, DVD RAM, HD-DVD ROM, HD-DVD R, HD-DVD RW, or HD-DVD RAM.

4. The method for playing back optical videodisc according to claim 1, wherein the non-volatile storage device in step (b) comprises a hard disc.

5-6. Canceled

7. The method for playing back optical videodisc according to claim 1, wherein the step (b) further comprising the following sub-steps:

simultaneously acquiring and playing back the video data that has been stored in the storage device, then outputting the film data to a video display unit according to video playing speed.

8. The method for playing back optical videodisc according to claim 1, wherein the video display unit in step (e) is a television.

9. The method for playing back optical videodisc according to claim 1, wherein the video display unit in step (e) is a monitor.

10. A method for playing back optical videodisc by using an optical disc drive, the method comprising the following steps:

a. reading video data from an optical videodisc at highest possible speed of the optical disc drive;

b. storing the entire video data to a non-volatile storage device;

c. halting the operation of the optical disc after the reading process has completed in order to avoid the unnecessary free running during idling time for power saving purpose;

d. according to a video playing speed, a video play back device continuously acquiring and playing back the video data from the non-volatile storage device;

e. outputting the video data to a video display unit;

f. ending the output of the video data; and

g. outputting the video data directly from the non-volatile storage device.

IX. EVIDENCE - APPENDIX

None.

X. RELATED PROCEEDINGS- APPENDIX

None.